

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 23-cv-61349-WPD

ERIC ROGERS,

Plaintiff,

v.

1505 FEDERAL PLAZA LLC and
MIAMI SUBS CAPITAL PARTNERS I, INC.

Defendants.

/

**ORDER OF DISMISSAL OF DEFENDANT 1505 FEDERAL PLAZA LLC; DENYING
WITHOUT PREJUDICE NOTICE OF VOLUNTARY DISMISSAL AS TO DEFENDANT
MIAMI SUBS CAPITAL PARTNERS I, INC.; REQUIRING SECOND AMENDED
COMPLAINT**

THIS CAUSE is before the Court upon the Notice of Entry of Parties [DE 17] (the “Notice”). Therein, Plaintiff requests the addition of Yolia, LLC as a defendant in this matter and requests dismissal of Defendants 1505 Federal Plaza LLC and Miami Subs Capital Partners I, Inc. The Court construes Plaintiff’s Notice as a Notice of Voluntary Dismissal.

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), a plaintiff may dismiss an action without a court order by filing a notice of dismissal “before the opposing party serves either an answer or a motion for summary judgment.” Defendant Miami Subs Capital Partners I, Inc. filed an Answer to the Complaint. *See* [DE 16]. Accordingly, a stipulation of dismissal signed by Plaintiff *and* Defendant Miami Subs Capital Partners I, Inc. is required. *See* Fed. R. Civ. P. 41(a)(1)(ii).

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Notice [DE 17] is **APPROVED** as to Defendant 1505 Federal Plaza, LLC

only. Defendant 1505 Federal Plaza, LLC is **DISMISSED WITHOUT PREJUDICE.**

2. The Notice [DE 17] is **DENIED** as to Defendant Miami Subs Capital Partners I, Inc., without prejudice to being re-filed as a Joint Stipulation for Dismissal signed by all parties or another document indicating that Rule 41 is inapplicable to this case. The re-filed stipulation should be filed on or before **November 1, 2023**.
3. On or before **November 8, 2023**, Plaintiff shall file a Second Amended Complaint against the new Defendant, Yolia, LLC, which shall be promptly served upon Defendant Yolia, LLC.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 25th day of October, 2023.



WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:

Counsel of record